

Comments from Kaj Ahlburg
February 7, 2012

County Commissioner's hearing for WRIA 18 Instream Flow Rules

I strongly urge the Board of Commissioners to oppose the rules Ecology wants to cram down the throats of the citizens of this county. These rules fly in the face of the will of the State Legislature, current law and local government recommendations.

I just want to hit a few highlights here, addressed in more detail in my comment letter to Ecology which I also submit for the record.

First, Ecology wants to require minimum flows that in some cases have historically never been achieved or less than 10% of the time. State law gives Ecology the right to protect actual stream base flows from overuse, not to shut down water use based on fanciful requirements that have never been met in the real world.

Second, Ecology makes crucial assumptions, unsupported by peer reviewed science, about hydrologic continuity between all private exempt wells in the Dungeness basin, no matter how deep, and the aquifer feeding the streams. State law requires Ecology to develop studies and data necessary for its rule making and Ecology needs to do so.

Third, Ecology's proposed rule does not engage in the balancing between protecting the quality of the state's environment and strengthening the state's economy that the Washington State Water Code requires.

Private exempt wells according to Ecology's own claims have a de minimis impact on Dungeness stream flows, perhaps even below the measurement error percentage. Compared to such minimal impact the harm the proposed restrictions would cause to this county's building realty industries and to the future inflow of retirees to the affected areas around Sequim are out of all proportion.

Fourth, applying the restrictions to those wells already drilled but not yet in use would be grossly unfair to all those who purchased a parcel with a well on it, for which a permit fee has already been paid, in the expectation of building a house on their lot and retiring in this county. It would create a perverse incentive for people to run well pumps to maximum capacity for years even though the water is not yet needed, simply to preserve the right to use the wells in the future.

Finally, instead of imposing draconian restrictions that make people's properties all but unusable for the intended purpose, to build a house with a garden, Ecology should pursue other options. These include impounding water during spring peak flow periods and releasing it back into the streams in late summer (a course of action specifically encouraged by state water legislation), and providing incentives for drilling into deeper aquifers not hydrologically connected to surface waters.

The State Legislature in the Watershed Planning Law has stated that: “The legislature declares and reaffirms that a core principle embodied in chapter 90.82 RCW is that state agencies must work cooperatively with local citizens in a process of planning for future uses of water by giving local citizens and the governments closest to them the ability to determine the management of water in the WRIA or WRIAs being planned.” It is your job to make that determination and it is time to make Ecology live up to that mandate.